

Approval as Written: 3/20/02

**CITY OF MORGAN HILL
SPECIAL AND REGULAR REDEVELOPMENT AGENCY MEETING AND
SPECIAL CITY COUNCIL MEETING
MINUTES - FEBRUARY 27, 2002**

CALL TO ORDER

Agency Member/Mayor Pro Tempore Carr called the meeting to order at 6:38 p.m.

ROLL CALL ATTENDANCE

Present: Agency/Council Members Carr, Chang, Sellers, Tate
Late: Chairman/Mayor Kennedy (arrived at 6:43 p.m.)

DECLARATION OF POSTING OF AGENDA

Agency Secretary/City Clerk Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2

CLOSED SESSIONS:

City Council and Redevelopment Agency Action

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant Exposure to Initiation of Litigation

Authority: Government Code Sections 54956.9(b) & (c)

Number of Potential Cases: 4

2.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Authority: Government Code section 54956.9(a)

Name of Case: Hacienda Valley Mobile Estates v. City of Morgan Hill et al.

Case No: C 01-20976 PVT, United States District Court, Northern District of California

Attendees: City Council, City Manager, City Attorney

OPPORTUNITY FOR PUBLIC COMMENT

ADJOURN TO CLOSED SESSION

RECONVENE

Chairman/Mayor Kennedy reconvened the meeting at 7:06 p.m.

CLOSED SESSION ANNOUNCEMENT

Agency Counsel/City Attorney Leichter announced that no reportable action was taken on the above listed closed session items and that the Agency Commission/City Council would reconvene to closed session at the conclusion of the listed agenda items.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

At the invitation of Mayor Kennedy, Ann Rosenseig led the Pledge of Allegiance.

PUBLIC COMMENTS

Chairman/Mayor Kennedy opened the floor to comments for items not appearing on this evening's agenda. Chris Schilling indicated that she serves on a committee trying to bring the Relay for Life to Morgan Hill to support the American Cancer Society. She stated that as of last night, 23 teams have signed up to participate in the event, noting that this is the first time that the event is being brought to Morgan Hill. She encouraged the City Council and staff to consider getting a team together to show Morgan Hill's support. No further comments were offered.

PRESENTATION

Youth Empowered for Success

Council Member Tate indicated that the report on the Youth Empowered for Success (YES) would be presented by several members of the Advisory Committee, a committee in place to take the message to the community about the adoption of the 40 developmental assets for youth in the community.

Deborah Cupp, Mt. Madonna YMCA, reminded the Council that it adopted Resolution No. 5487 that stipulates that the City would utilize the framework of the developmental assets in all policies and decision making. She addressed the goals of the Cornerstone Project and the developmental assets. She indicated that these assets have been proven to reduce high risk behavior patterns, noting that the more assets youth have, the more likely they are to take part in good behavior versus risky behavior. It is believed that there is a direct correlation with the number of assets that youth have and their success. She stated that the committee has been working hard on developmental asset No. 7 which relates to the community valuing its youth. She said that only 15% of the community youths in Santa Clara County feel valued. The committee is working to change this percentage in Morgan Hill. She indicated that YES is contacting different organizations in the community in order to explain the development asset framework and how they can utilize the framework within their

organizations.

Daniel Medina, President of the Student Senate at Central High School, recently appointed to the County wide Cornerstone Project Advisory Committee, stated that he became president of Central High School because he wanted to change the image of the school. He partnered with Cornerstone because it is their goal to have a healthier community where youth and adults interact on many issues. His participation in YES has assisted him in the facilitation of meetings, noting that a meeting was held in October at Central High School where Council Members Carr and Tate were present as were other members of the community. The group interacted with the student government. He stated that Cornerstone has been working hard to show that youth care about its community and that the community should not forget its youth.

Lisa Ramos, Community Solution Domestic Violence Programs, stated that a committee effort was undertaken to recognize different programs within Morgan Hill which have helped youth with several of the developmental assets. She stated that the committee is putting together a brochure to recognize programs and agencies in the community that help and support youth.

Brittany Bach, Member of the Youth Advisory Committee and Britton Middle School Student, indicated that on February 8, 2002 a breakfast was hosted by Anritsu. She stated that many community leaders attended as well as Council Members Carr and Tate and that there was dialogue about the youth developmental assets. She indicated that there is a plan to have these meetings every three to four months.

Debbie Tawny, member of the 2002 Morgan Hill Leadership Class and Tutor Time staff member, stated that the direction of YES is to continue with the youth interchange meetings that have been held and to conduct follow up meetings. YES would like to tell the youth that the community is listening to them and what is being done with youth feedback. She indicated that the next meeting is scheduled for March 6 to be held at the El Toro Youth Center. YES would also like to continue the quarterly community interchange breakfast meetings, noting that the next meeting is scheduled for May 17. These quarterly meetings are held to raise awareness, to talk about some of the methodologies that individuals have come up with, and to share ideas. She stated that YES is hoping to start its business outreach meetings with the first meeting to be held in April with a Chamber of Commerce Breakfast Program. She informed the City Council that YES would like to produce a brochure for Morgan Hill similar to the one prepared by the Cornerstone Project.

Lanae Bach, parent, stated that it has been a privilege working with Morgan Hill YES as it is a great group and program. She indicated that one of the things that YES is working on is putting together a program entitled "The Mayor's Awards for Excellence in Youth" to be presented to youths in the community, on behalf of the City, modeled after the "Presidential Awards for Youth," where youths who have reached a level of attainment in scholastics, sports, etc., and have given back to their community would be recognized. She stated that the breakfast meeting was well received in the

community and that it is hoped that the community and the City would help fund future endeavors.

Noella Tabladillo, Cornerstone Project, thanked the City for bringing Cornerstone into the community. She stated that it is the Council's leadership that has motivated individuals and volunteers to take the 40 developmental assets and begin to make them what Morgan Hill feels is necessary for the community. She indicated that Cornerstone offers its assistance in training individuals to move forward with the initiative. She stated that Cornerstone Project staff has met with University of Davis and Harvard University representatives who want to take a look at the work being done in Morgan Hill. She thanked the City Council for taking a leadership role in this effort.

Health & Safety Alliance/Community Health Council

Vivian Varela, Santa Clara County Health Planning Specialist, introduced Lynn McGruder from the Health and Safety Alliance Committee, and Santa Alvarez a Community Health Council Member, who explained the purpose of the Health and Safety Alliance and South County Collaborative, a group of human care providers in South Santa Clara County who are working toward improving access to health care.

CONSENT CALENDAR:

Redevelopment Agency Action

Action: *On a motion by Vice-chairwoman Chang and seconded by Agency Member Sellers, the Agency Commission unanimously (5-0) **Approved** Consent Calendar Items 1 and 2 as follows:*

1. **JANUARY 2002 FINANCE AND INVESTMENT REPORT**

Action: ***Accepted** and **Filed** Report.*

2. **APPROVAL OF CONTRACT FOR MORGAN HILL LIBRARY TRAFFIC STUDY CONSULTANT SERVICES**

Actions: *1) **Appropriated** \$25,600.00 From the Library CIP Account; and 2) **Authorized** The City Manager to Execute a Consultant Services Agreement for Contract Consultant Services at a Cost Not to Exceed the Above Amount, Subject to City Attorney Approval.*

City Council Action

Action: *On a motion by Council Member Chang and seconded by Council Member Sellers, the City Council unanimously (5-0) **Approved** Consent Calendar Items 3-7 as follows:*

3. **BEVERAGE CONTAINER RECYCLING FUNDING - Resolution No. 5551**

Action: ***Adopted** Resolution No. 5551, Authorizing the City Manager to Request Funding.*

4. **CITY 2002 LEGISLATIVE AGENDA**

Actions: *1) **Approved** the 2002 City of Morgan Hill Legislative Agenda; 2) **Authorized** the Legislative Subcommittee to Direct Staff to Communicate the City's Legislative Position on Issues When a Position Is Consistent with the Legislative Agenda.*

5. **GMP METAL PLATING SEWER FEE LOAN DEFERRAL**

Actions: *1) **Approved** GMP'S Request to Continue to Defer Principal Payments of its Sewer Impact Fee Loan (Loan) Through November 2002; 2) **Approved** GMP'S Request to Defer Payments of Interest for its Loan Through November 2002; and 3) **Authorized** the City Manager to Modify Any Required Documents to Reflect the Deferments.*

6. **ADOPTION OF REVISED JOB DESCRIPTIONS AND SALARY RANGES FOR THE OFFICE ASSISTANT I IN PUBLIC WORKS AND THE .5 OFFICE ASSISTANT II POSITION IN THE ENVIRONMENTAL PROGRAMS FUNCTION**

Action: ***Adopted** the Revised Job Descriptions and Salary Ranges for the Office Assistant I in Public Works and the .5 Office Assistant II in the Environmental Programs Function.*

7. **WAIVER OF TASTE OF MORGAN HILL PERMIT FEES**

Action: ***Waived** 50%, or \$1,384.47 of the 1999 Taste of Morgan Hill Special Event Permit Fees Due From the Morgan Hill Chamber of Commerce.*

Redevelopment Agency Action

OTHER BUSINESS:

8. **AMENDMENT TO THE LOAN AGREEMENT FOR FIRST COMMUNITY HOUSING'S MURPHY RANCH HOUSING PROJECT**

Director of Business Assistance and Housing Services Toy presented the staff report. He clarified that this is a residual receipt loan in which the Agency would receive 70% residual cash flow and that the source of the loan would be the Redevelopment Agency's 20% housing set aside funds. He indicated that once the applicant pays off the primary debt service, operating expenses, and contribution to capital reserves, the remaining amount would go toward repayment of the Agency's loan. He said that the loan would accumulate simple interest at 4% and that based on the cash flow of the project, the loan would not be repaid until the end of the 55-year period. Therefore, during this time, interest would accrue and that at the 55-year period, the applicant would pay the principal and whatever accrued interest there is.

Agency Member Carr inquired whether additional home funds through the County would be available which would result in lowering the Agency's financing portion?

Thomas Iamesi, Director of Housing Development for First Community Housing, informed the Agency Commission that they are in the process of applying for \$800,000 through the County. He said that First Community Housing has received the first level of recommendation from County staff and that the request would be before the Citizen's Advisory Committee on February 28 for further approval. The application would then go on to the Council Committee for approval to be sent to the Santa Clara County Board of Supervisors. He indicated that First Community Housing is the only applicant for the Home Funds this year. He was confident that the Board of Supervisors would approve the loan. He stated that this \$800,000 is accounted for in the budget and that it would not go toward reducing the City's commitment at this time.

Agency Member Carr stated that he serves on the Council Committee and that the Committee expressed concern that the per unit cost for the development in Morgan Hill was significantly higher than the per unit cost for the project from Palo Alto.

Mr. Iamesi stated that First Community Housing is working with City staff to acquire funds from different sources. He stated that typically, a project of this nature, would cost approximately \$70,000 per unit. The City of Morgan Hill, at the end, would be providing \$47,000 per unit for the 100 units. He stated that the cost per unit is under control, noting that some projects in San Jose have land costs considerably higher. The overall cost is \$180,000 per unit in Morgan Hill, noting that these are four bedroom townhomes with as much as 1,400 square feet that will serve large families. He indicated that he has some projects that are as much as \$260,000 per unit in San Jose.

Agency Member Sellers stated since First Community Housing was last before the Agency Commission, the City has performed a more detailed analysis of exactly where the City is with its Redevelopment funds. Therefore, all projects coming before the Agency are being scrutinized in order to maximize the resources, particularly housing funds. He stated that he was concerned about the increase but that he understood its purpose. He inquired as to the motivation for First Community Housing to secure additional funding in order to reduce the City's contribution?

Mr. Iamesi stated that First Community Housing would continue to work in the City of Morgan Hill for the duration and that they are neighbors and part of this community. He stated that there are funding programs available to be applied for during the coming year. First Community Housing is before the Redevelopment Agency because it has a critical start date under the Measure P program of June 30, 2002. First Community Housing needs these funds to facilitate the construction of the project. He indicated that during the course of construction, First Community Housing would apply for additional funds. He said that some of the funds that were acquired are in excess of what the overall cost of construction would be. He would be applying for AHP funds, an affordable housing program administered by the Federal Home Loan Bank that may provide an additional \$450,000 to

contribute to this project. This money would go directly toward reducing the City's commitment to the project. He stated that First Community Housing would continue to look for additional funding sources, noting that he has gone through 11 different sources to minimize the City's contribution to the project.

Jeff Oberdorfer, Executive Director of First Community Housing, stated that not all of the issues before the Agency are attributed to cost overruns. He stated he had a \$¼ million preliminary loan from the State School Fee Reimbursement Fund, noting that this program was canceled with a month's notice last December, therefore, this project lost \$¼ million. The action to be taken by the Redevelopment Agency this evening would help fill the gap in the funding lost, and that the funding is not attributed to increase costs.

Chairman Kennedy opened this item to public comments. No further comments were offered.

Actions: *On a motion by Agency Member Sellers and seconded by Agency Member Carr, the Agency Commission unanimously (5-0): 1) **Approved** an Additional \$2 Million Loan to First Community Housing (FCH) to Meet the Increased Cost of Developing the First 62 Units Of this 100-Unit Project; 2) **Authorized** the Executive Director to Modify and Execute Loan Documents as Required, Provided the Approved Loan Amount Is Not Exceeded; and 3) **Appropriated** \$2 Million From the Unallocated 20% Housing Set-Aside Fund Balance.*

City Council Action

PUBLIC HEARINGS:

9. ZONING APPLICATION, ZA 01-05: MONTEREY - SOUTH VALLEY DEVELOPERS (APN 764-10-004)

Director of Community Development Bischoff presented the staff report and indicated that this item was continued from February 6. He said that the Council directed the applicant to provide additional information in six topic areas as follows: 1) adequacy of the fencing along the western boundary of the site; 2) effect of lighting on the neighborhood to the west; 3) the effect of the carwash noise to the neighborhood to the west; 4) traffic impacts associated with egress and ingress to the property from Monterey Road; 5) the potential of increased crime due to a 24-hour operation; and 6) the sale of alcohol and tobacco on site. He indicated that the applicant has produced a couple of documents that have been provided to the Council in response to the six issues and provides specific information relating to alcohol beverage sales at this type of facility. He stated that staff has reviewed the additional enhancements and that each of these enhancements have been added as additional measures in the PUD Guidelines for the project. He indicated that the applicant would like to address the six enhancement measures. He said that residents are present this evening and that they

may be requesting the ability to show a six minute video dealing with am/pm mini marts. He stated that the Council was also furnished with a letter this evening from David Sweigert, attorney representing the neighbors. In the letter, Mr. Sweigert suggests that there are some CEQA problems with the project, specifically, the amendments to the project proposed by Mr. Schilling and contained in the document represent new mitigation measures. It was Mr. Sweigert's belief that new mitigation measures for the project would require recirculating of the environmental documentation for public review. He informed the City Council that staff does not agree with Mr. Sweigert. He said that the things being proposed by Mr. Schilling are enhancements to the project. Therefore, it is staff's belief that none of the enhancements are necessary to mitigate impacts of the project to less than a significant level and that the mitigations included in the environmental document provided to the Council on February 6, 2002 were adequate. It is staff's belief that the environmental document is adequate and in compliance with state law.

Scott Schilling, applicant, indicated that Steve Schilling, South Valley Developers; Ken Wikerham, Arco; Martin Fineman, Davis, Wright and Trumain; Michael Flarity, Arco; and George Garcia, Garcia Architecture, were present as part of the project team. Also present was Jeff Pack, Edward Pack & Associates, acoustical engineer. He indicated that any of these individuals would answer questions relating to the additional information provided. He addressed the information provided, noting that one of the requests was for additional views of what the project would look like from the intersection. He indicated that he provided other views from the neighborhood side of the project in the packet. He stated that the supplemental information was divided into fencing & landscaping, lighting, noise, traffic, ABC Licensing, beverage sales, 24-hour operation and phasing information. He indicated that at the last meeting there was discussion relating to the fencing material to be installed. He said that Caltrain is supportive of the type of fencing proposed to deter pedestrian traffic across the railroad tracks. He displayed a sample of the fencing and marked the approximate railroad track height at the site and as well as the centerline of truck and car headlights. He said that this would give the City Council and the residents a sense of the fence height and the car lights coming into the site. He also displayed sticker bushes to be planted that would help deter climbing the fence. He stated that redwood trees are to be installed, proposing an evergreen tree with a circular canopy. Fencing is proposed along the entire length of the project, extending to the north end of the El Capri Restaurant property. He stated that the distance from Sanchez Drive to the stop light and up to Cochrane Road is approximately $\frac{3}{4}$ of a mile walking distance and is considered a safe walking distance to an elementary school. He felt that the safety of the fencing improves the current situation and does not make it unreasonably difficult to get to the other side using sidewalks. He stated that he would be working with Venture Corporation in order to install improvements. This would result in a Jarvis Drive extension that would provide easy access and a shorter route into the Business Park area for the community.

Mr. Schilling provided views of what the project would look like if you were standing on the left side of the railroad track (eight foot wrought iron fencing, evergreen trees with a canopy element). Also, provided were cross sections from El Capri looking south of the gas station facility, the

carwash building and the drive aisle. He is proposing an additional trellis element in the landscaped area to help screen the canopy with additional landscaping along the railroad tracks. He said that the views from the existing neighborhood would be the 18-20 foot trees and the wrought iron fence. He said that he would agree to provide two, twelve foot travel lanes past the most southerly driveway entrance, four feet to be a bicycle lane and 8 feet of additional paving past the southerly driveway entrance in order to improve traffic circulation.

Ken Wikerham, Arco BP, stated that it is his hope that the material put together relating to beer and wine and a 24-hour operation would help answer questions raised by the City Council at the last meeting. He stated that he would agree to answer any questions that the Council may have. Also, present to answer questions were Mike Flarity, project engineer; and George Garcia, architect.

Mayor Kennedy opened the public hearing.

Rogelio Balderas, 18520 Del Monte Avenue, stated his opposition to the Gateway project. He distributed a packet of information based on comments by the gentleman from Arco about the alcohol related problems of mini marts. He stated that the Center for the Science of Public Interest, the Marine Institute for the Development for Research on alcohol and drug problems, and the Trauma Foundation are quoted in the packet of information distributed. It is stated that under age drinking is wide spread in the United States, young people have easy access to alcohol, and alcohol is a factor in the four leading causes of death among individuals ages 10 to 24. He expressed concern that it was indicated by the Arco representative that they already received a letter of public convenience and necessity, noting that the City Council has not voted to issue the land use permit. He stated that ABC has not issued a license, noting that a protest is pending. He expressed concern that due process is not being followed. It was also indicated that a publication states that Arco has received accommodations from Mothers Against Drunk Drivers (MADD) and received citations for responsible service training. He noted that the local chapter of MADD was not supportive of the project. He stated that Santa Clara County hosted a statewide meeting yesterday relating to community responses to alcohol related community concerns. He indicated that senior policy analysts from the Trauma Foundation were in attendance, informing communities as to what needs to take place in order to address these issues. He informed the City Council that what is taking place in Morgan Hill is being paid attention to by other areas in California.

John Campasano, San Jose, indicated that he is an alcoholic and drug addict in recovery. He agreed that Arco or convenience markets are not the cause of alcohol problems, but noted that the key word is "convenience" and that they are a convenient place to go. He felt that it would be inappropriate to approve such a use in proximity to children. He said that if you drive by any late night liquor stores you would see the person he used to be in numbers. He did not oppose free enterprise, however, he did not see this project improving services to the community. He stated that the Council is responsible for protecting its youth and its future.

Ingrid McNulty, 18575 Old Monterey Road, stated that the construction and the operation of the Gateway center would greatly increase the amount of night time lighting visible to the residential neighborhood. She stated that the residents are not use to seeing bright lights directly across the street from them. She felt that the lighting of the canopy would be as bright as daylight in the neighborhood, even with the trees blocking it. She felt that light would filter through and above the trees. She also felt that the operation of the Arco AM/PM would increase the noise levels in the neighborhood, noting that it is a quiet neighborhood at night. She indicated that the Capri Restaurant closes early enough that the traffic is not an issue. However, with a 24-hour gas station, there would be constant noise such as slamming of doors, cars peeling out, loud voices, music, and trucks which would be above an acceptable noise level for the residents in the neighborhood. She did not believe that the activity complaints of the neighborhood on Vineyard and Monterey can be compared with her neighborhood because that gas station does not sell alcohol. She noted that the relocation of the carwash to a different area of the development was not addressed as promised. She requested that the neighborhood be kept peaceful and safe.

Judy Harvel indicated that she is not a resident of Morgan Hill but that her daughter, son in law and granddaughter live in the neighborhood. She stated that she has been an alcohol and drug counselor in Santa Clara County for 22-years. She said that should the City approve a convenience store that sells alcohol would result in problems. She did not believe that alcoholism or drug addition is a moral issue. However, once an individual is under the influence, they perform immoral behavior with children involved. She indicated that 90% of prisoners in San Quentin are attributed to alcohol related crimes. Approval of the convenience market in association with the sale of alcohol would be a detriment to the community. She did not want to see her granddaughter crossing the railroad tracks to get her favorite beverage only to be hit by train or be attacked by drug or alcohol abusers. She felt that this is a family oriented community and recommended that the Council keep trouble away from the neighborhood.

Sarah Johnson stated that she is scared, does not want to be kidnaped, and wants to feel safe in her neighborhood. She requested that the Council make the right choice.

Eugene Vanella, 160 Sanchez Drive, thanked Mayor Kennedy and Council Member Tate for visiting the neighborhood and listening to the neighbors' concern. He also thanked Mayor Pro Tempore Carr and Council Member Sellers and Chang for listening to the residents' concerns at the last meeting relating to the issues of alcohol, lighting, noise, traffic, etc. He stated that when Sanchez Drive developed, it was the hope of redevelopment to create an affordable neighborhood. He said that this has been a successful development. However, he expressed concern that the Gateway project would turn around what has been built in the neighborhood and bring alcohol and the indigents, resulting in a temptation for the children. He expressed concern with noise, especially from teenagers partying at night. He felt that the city's police force is overtaxed and to have to call them every time there is a problem would be difficult. He expressed concern that the proposed fence is tubular and that it can be easily bent. Should the Council approve the project, he requested that the fence be solid wrought

iron bars. He felt that a valley area exists adjacent to the tracks that would be a great place for homeless individuals to hang out and that the shrubbery being proposed would protect individuals from being seen.

Sherry Vanella, 160 Sanchez Drive, understood that the area needs to be developed but expressed concern about the proposed use. She distributed a report that addressed problems with convenience stores. She indicated that the report states that after dark, convenience store workers are at greatest risk of being murdered during robberies and other violent acts. She noted that an article in yesterday's Gilroy Dispatch states that a convenience store was robbed and a clerk was stabbed. This was linked to several robberies that have occurred over the past several days. She said that approximately 28% of all death row inmates in the United States have been involved in convenience store robberies, abductions, and/or murders. She summarized the article she distributed relating to problems associated with gasoline stations and convenience markets. She noted that Arco only accepts cash purchases. Having available cash on hand makes an establishment attractive to robbers/drug addicts who need a quick source of funds. It is her hope that the City's gateway is not the location of the first murder in Morgan Hill. She indicated that KGO Radio stated that 25% of all alcohol consumed in the United States is by minors and is in epidemic proportions. She indicated that the proposed Catholic High School is located approximately 968 feet away from the project's property line. She said that a City Ordinance states that no new establishments are to be built within 1,000 feet of an existing or proposed school site. She noted that the area is already saturated with establishments that sell alcohol and questioned the need for additional establishments that sell alcohol. She noted that there were other gas stations in town that do not sell alcohol after 11:00 p.m. and close off access to the public due to dangers that employees face. It is being stated that the only way to make the facility safe is to install a lot of lighting. She felt that lighting would protrude into the neighborhood and that it is not known whether lighting would deter crimes. She expressed concern with sex crimes, violent crimes, robberies and murder that area children would be exposed to. She felt that foot traffic would increase with the project. She requested another use for this gateway area.

Robert Quill, 18575 Old Monterey, stated his opposition to the Arco am/pm gas station due to safety, traffic, responsibility and integrity. He felt that although safety has improved, it falls short of being satisfactory. Area residents believe that the mitigation measures would need to be applied no matter who occupies the site. He recommended that the applicant/project tenants be made to pay for the installation of a pedestrian overcrossing that would provide safe access to the facility and not burden the tax payers. He felt that traffic still creates congestion north of the railroad tracks. He felt that the installation of a pedestrian walkway at the intersection of Monterey and Old Monterey would be a dangerous situation and that he would not allow his children to cross at this intersection. He indicated that South Valley Developers does not currently own the property but that they have an option to purchase the property later on. He said that Mr. Schilling has met with the neighbors and appears to be sensitive to the neighbors' concerns. However, the Arco representatives have not made an attempt to contact neighborhood residents. He asked what would happen should Mr. Schilling sell the project down the road? Should Arco not be able to turn a profit, it was his belief that they

would leave the community. He felt that Arco has a shady history in Morgan Hill, noting that this is a corporate endeavor with the sole purpose of making a profit. He stated that this is a great town with a wonderful history. He felt that this is a marquee piece of property that symbolizes what Morgan Hill is all about; community essence and quality of life.

Patti Andrade indicated that she is present to represent her families' El Capri Restaurant. She indicated that her family has worked eight years to make the restaurant successful and that they were finally given the opportunity to purchase the property a year ago at a high cost. She stated that her family turned the business around through the dedication of her family and their customers. She stated that her family opposes the service station but not development of the property because of the potential for increase in the crime rate. She indicated that her family will adjust to changes but does not take away that when her business closes down for the night, the neighbors and the residents will suffer the varying degrees of potential crime. She stated that she served on the General Plan Task Force and that one of the important aspects of the General Plan was to ensure that the quality of life in Morgan Hill would be fostered. She felt that the quality of life for the neighbors would decrease dramatically. She said that the Arco station would provide a great economic incentive but felt that it would not benefit the citizens of Morgan Hill.

Shellie DeJesus, 18345 Old Monterey Road, expressed concern with the noise levels due to the fact that she resides across from the fire station and the railroad tracks. She stated that she is surprised that the City would consider an Arco am/pm facility in such a small area when there are other services nearby. She said that traffic into and out of Morgan Hill already backs up during commute hours. She did not believe that the new lane and bike lane would last long before an accident would occur. She noted that there have been numerous accidents from traffic on Old Monterey and Monterey Road. She stated that she personally was involved in an accident at this intersection in 1997 due to traffic, noting that the traffic at this intersection is 10 times worse today. If this project is approved, she felt that the city would experience more traffic and accidents. She expressed concern with the amount of noise to be generated by this project on top of the existing noise from the fire sirens and railroad. She felt that this facility would just give teens another place to hang out as teens tend to hang out in areas that are open late. She expressed concern that the community would have cancer causing materials, along with explosive materials, in the neighborhood's front yards. She stated her opposition to the project and requested that the City take the neighborhood's concern seriously.

Linda Hartman, 120 Berkshire Drive, stated that residents take pride in their neighborhood and expressed concern with the safety of the children. She said that she is not opposed to Arco but asked why it is being proposed on this site, especially in association with the sale of alcohol and tobacco. She said that it has been found that alcohol has been found to be a factor in the following: 70% of all murders; 50% of all arrests; 50% of fatal accidents among young people; and that children account for more than ¼ of the U.S. alcohol consumption. She said that the residents are requesting that the City Council consider the consequences of placing a 24-hour mini mart at the gateway into

Morgan Hill. She noted that only last week a Gilroy liquor store owner was stabbed by two men in an attempted robbery and that Monday, in the same parking lot, was the origin of a high speed chase. She felt that an am/pm sign would only attract trouble. She stated that she is proud of her neighborhood for standing up for its beliefs. She indicated that the children are the community's future and requested that they be kept out of harms way.

David Sweigert, attorney working with the neighbors against the Gateway project, stated that he did not agree with staff's opinion regarding whether or not there are new impacts that were addressed in the Negative Declaration that was circulated for public comment such as lighting and the merging down to one lane under the overpass. He felt that these were new impacts and that new mitigations would be required. He submitted, for the record, two letters: one letter from William Nichols, an insurance broker who makes significant statements regarding the high cost of insurance for 24-hour operation and the risks associated with the 24-hour operations. The other letter is from Rick Norman, an individual with 37-years of experience in the construction of gasoline stations and is familiar with lighting and positioning service stations in the association with other land uses. Mr. Norman indicates that any canopy lighting, even at the lowest lighting, would result in significant lighting impacts to single family residential uses located 250 feet away. He does not believe that the issues are close but that should Council members believe it is a close call, he recommended that the Council look at the General Plan that protects neighborhoods such as: Goal 6 (avoidance of incompatible land uses and conflicting activities); policy 60 (requires city to evaluate potential impacts of development of the project to adjacent uses in the initial environmental assessment and EIR, noting that this was not done); policy 7.L of the Community Development Element (encourages the preservation and rehabilitation of single family neighborhoods in the city); Policy 9B (discourages isolated and sprawling commercial areas along major roads); Action 9.7 (calls for amendment to the zoning ordinance to prohibit convenience/commercial uses in residential neighborhoods); a policy in the Economic Development Element encourages economic development that identifies community needs and that are planned to minimize negative impacts. He did not believe that the use provides an identified community need. He recommended that the city conduct a full environmental analysis instead of a piecemeal approach with new mitigation measures and new issues merging, noting that he has not had the opportunity to review the new lighting study submitted. He said that if CEQA had been following, the lighting study would have been attached as an appendix in the EIR. He did not believe that there was another single family residential neighborhood that was in close proximity to a fast food restaurant nor gas station/mini mart carwash facility. He urged the City Council not to sacrifice this residential neighborhood for economic gain. He requested that the Council deny the application this evening or that it direct staff to fully analyze all impacts and mitigation measures, including the analysis of alternatives for development of this site.

Marylee Hartsell, 105 Sanchez Drive, yielded time to a previous speaker.

Gary Genest, 18515 Old Monterey Road, stated that most of his concerns have been raised. He felt

that there would be a place between the railroad tracks and the fencing that would allow individuals to camp or hide. He felt that the Police personnel would have a hard time seeing individuals hiding in these areas.

Maria Genest, 18515 Old Monterey Road, yielded her time to a previous speaker.

Lourdes Balderas, 18520 Del Monte Avenue, yielded her time to her husband.

Genny Cullen, 800 Mendocino Way, a 41-year resident of Santa Clara County with the past 22 years living in Morgan Hill, stated that to the best of her knowledge, no one has made an attempt to develop the property even though it has been zoned commercial the past 30 years. She said that the 22 small older homes on Sanchez Drive were all by themselves when she moved to Morgan Hill, with the oldest being built in 1891 and the with newest one in 1992. The other adjacent neighborhoods came along apace after this time. She acknowledged that change takes place and that it is known as progress. She felt that goods and services must keep pace and that the proposed project is an opportunity to provide a sound, architecturally enhanced project instead of a hodgepodge of franchise architectural businesses. She said that the project is one that would enhance the entire city as well as the adjacent neighborhood. She stated that South Valley Developers is a firm that has long been associated with quality development. It has been her experience that traffic would slow down naturally when properties develop, particular when there are goods and services offered. She liked the safety features proposed such as the installation of a stoplight at Old Monterey and Monterey Road and sidewalk to the project. She felt that the project is the one that should be welcomed with open arms and encouraged by the City and the neighborhood.

Mayor Kennedy addressed the process and stated that if someone wants to speak longer than the allotted time, it is customary to submit other cards from individuals who would yield their time and turn it in before one speaks. He indicated that Mr. Smoot would be showing a six minute video, noting that Maria Genest has yielded her time in order for Mr. Smoot to present the video.

Gaye Quinne, Venture Corporation, addressed the traffic improvements and the conditions of approval that have been applied to this project. She stated that Venture Corporation would be more than happy to work cooperatively with the developer on the improvements necessary to the intersection that affects Venture Corporation's property.

Sunday Munich, Executive Director, indicated that the Morgan Hill Chamber of Commerce's, Economic Development Committee is in support of the mixed use development. The Economic Development Committee believes that it meets the criteria of Morgan Hill and the General Plan update. The Committee also feels confident that the developer would do everything possible to meet the needs of the community. She clarified that the Committee misrepresented itself on February 6, 2002 in that the blighted area being referred to was located next to the Capri Restaurant and was not the Capri Restaurant. She apologized for the misunderstanding.

Rebecca Tas, 18435 Old Monterey Road, stated that she dreams about allowing her unborn child to play in the front yard without breathing exhausts from customers patronizing the gas station. Also, strangers would have nothing better to do than looking into front yards and homes while filling up with gas. She wants neighborhood children to continue to play freely and safely in the area and not worry that individuals drinking alcohol at night would come into the neighborhood and endanger them. She did not believe that a gas station would be an attractive entrance into the community. She indicated that last weekend, the neighborhood had a scare in that an explosion occurred with the neighborhood losing its electricity. It was her belief that a high-power voltage line exploded underneath the proposed gas station site. If there had been a gas station built with the fire going off above, she shuddered to think what would have happened to the neighborhood.

Elaine Medina, 18395 Old Monterey Road, indicated that she works with families and children that are at risk. It was her belief that children in the neighborhood would be placed at risk. If a convenience market is approved, it would attract children since there are no barriers. She did not believe that children would be practical and walk around to access the intersection. She said that the last thing that she would want to do is work with a family in her neighborhood. She requested that the City Council consider the safety of the children and grandchildren. She stated that traffic safety remains a concern.

Greggory Smoot, 230 East Dunne Avenue, presented a video of two Arco stations located in Alisal and Salinas, and of a Chevron station located in Morgan Hill. He noted that the lighting in the area is poor and therefore, a lot of foot traffic is seen. He indicated that 40% of the canopy lighting was out and felt that someone could get hurt and that it would be a very easy place for a robbery. The signage on the walls indicates that beer and alcohol were sold and that there were several minors in the facility. He noted garbage everywhere with no employees picking up trash. One of the gas stations did have a lot of lighting and a cashier kiosk but that the employee was watching television the entire time he was there. Trees and landscaping were patchy at best. He expressed concern with the type of people that would be attracted by an am/pm market and that it would be used as a hang out. He was disgusted with the restroom facility as there were no toilet paper, paper towels, soap or mirror and the fact that it was dirty. He stated that a Chevron located two miles away was well lit, was clean and the staff look professional. The sale of alcohol does not occur after 10:00 p.m. He noted that other gasoline stations in Morgan Hill close their doors at night and do not sell alcohol after 11:00 p.m. He said that gasoline stations/mini marts that sell alcohol after 11:00 p.m., or up to the time that they are allowed by Federal mandate, have a different clientele. He did not believe that corporations care about residents and felt that if someone in Morgan Hill owned the facility, it might be different.

Jim Steward, General Manager for Broderson Enterprises, indicated that he oversees the Cochrane and the Monterey/Vineyard Chevron gas station locations. He said that he has been in this business for 17 years and has overseen 8 locations in three different states. He addressed lighting, noise, insurance, and competitive fairness. He said that lighting is the number one safety issue for gasoline

stations and convenience stores, noting that the lack of sufficient lighting puts customers and employees at risk and increases a company's liability. He said that the Council has been provided with lighting information from Rick Norman who has built many gas stations and convenience store facilities. It was his belief that the amount of lighting required to ensure the safety of the customers and the employees of the proposed gas station would adversely affect the residents located behind the site (e.g., 24, 400-watts halogen bulbs located 150 feet from bedrooms). He said that insurance costs greatly increase with a 24-hour facility. He said that many insurance companies would not insure 24-hour facilities due to the increased liability. He said that the comparison of the apartment complex to the residents of Old Monterey Highway was not a fair comparison as there was a greater financial investment in homes in Morgan Hill than renting an apartment. He said that the Chevron gas station site was developed in conjunction with the apartment complex and the Jack In The Box and that they lock their doors at 11:00 p.m. and do not sell alcohol. The proposed Arco would be a 24-hour facility and would sell alcohol, creating late night traffic and exposure to the neighborhood.

Mr. Steward said that the Monterey and Vineyard site generates 30% more fuel sales per MPD for each pump and five times the sales per square footage. He said that you cannot compare a station with 18 fueling locations with one that has 12, or one with a 3,000 square foot store to that of a 400 square foot store. He stated that he would have preferred to have his Chevron Cochrane store located to the back side of the property and to have the pumps as the first thing you see, but the designs were changed to accommodate the requirements of the City. He indicated that the Monterey/Vineyard site generates more bottom line profit than the Cochrane site. He enjoys doing business in Morgan Hill, takes pride in serving the community and providing a clean, friendly and safe environment for the citizens of Morgan Hill. He felt that incoming businesses should be held to the same standards and requirements. He indicated that the Monterey/Vineyard site was restricted to a 400 square foot store due to a city ordinance and that he was not allowed a liquor license due to over saturation which greatly reduces the potential for profits. However, Chevron was willing to do what was best for the community. If the Cochrane site was allowed to locate the pumps at the front and the store in the back, it would have generated a greater amount of impulse gas purchases that would have increased store sales.

Martin Fineman with Davis, Right, Trumain law firm, representing Arco, indicated that this project would generate millions of dollars in tax revenue and provide a service to the community in place of a blighted site that represents the gateway into Morgan Hill. He noted that the site is located adjacent to railroad tracks with trains running all night long. Other than some billboards, it is an otherwise empty piece of property to be replaced by a beautiful, aesthetically pleasing building that would bring money, jobs and services to the community. He responded to the comments by Mr. Sweigert, the attorney for the Chevron owner down the street. He noted that Mr. Sweigert submitted a letter and other additional material that he has not received nor had the opportunity to review. He said that it is incorrect to label the measures to be discussed as mitigation measures as these terms are used in zoning or CEQA laws. He clarified that enhancements to the project are being proposed

and that they do not represent a need for an environmental impact report. He stated that the project proponents have attempted to submit written material that would address the concerns voiced by the City Council at the last meeting. It is the project team's hope that they have provided assurance on the issues of concern. He noted that a representation of the fence has been on display and felt that the fence would enhance security by preventing individuals from crossing the railroad tracks. He said that the project would provide enough lighting to discourage loitering or vandalism but would not represent a lighting issue for the surrounding neighbors. The same could be said about noise, noting that the site is located in an area that has a railroad track and a busy street. He stated that the acoustic reports indicate that this project would not add to the noise in the area. He stated that the project would provide a traffic signal, sidewalks and lighting. It was his hope that the additional information submitted addressed the Council concerns.

Steve Perrera indicated that he has worked with South Valley Developers in the past and that he was impressed with the integrity and design of their buildings. He noted that the developers live, work and have families in the community. It was his belief that children would have easier access to alcohol at their own homes versus a neighborhood am/pm market. He felt that it is a benefit to have a local developer who cares about what is built and would not build anything displayed in the videos that are dark or shabby looking.

George Garcia, project architect for the Arco portion of the project, stated that the issue of safety, alcohol, noise, and traffic were addressed in detail in the documents presented by Mr. Schilling. He presented the City Council with renderings of how the project would be viewed from Monterey Road.

Michael Flarity, zoning and development manager for Arco, stated that John Christianson, safety and security expert for Arco, has submitted letters to the Planning Commission and the City Council. He indicated that Mr. Christianson was a police officer for 29 years and has been Arco's safety and security expert for the last 7 years. He read into the record Mr. Christianson's comments relating to lighting of facilities, noting that a number of studies by law enforcement officials and retail security professional have demonstrated a safer environment is created when the facility is well lit and visible. He noted that the elevation of the convenience market is unobstructed. He said that safety is the most important issue of concern for Arco. He stated that Arco has been recognized as a leader in the convenience store industry of reducing and maintaining low levels of crime in their retail facilities, noting that robberies have been reduced by 50% and violent crime by over 80%. He said that the facility to be built in Morgan Hill will be a state of the art facility when it comes to security. He indicated that 15 cameras would be installed (8 cameras exterior and 7 interior cameras). When it comes to loitering, he said that Arco facilities post signs that restrict loitering on the premises and that employees are trained to control loitering.

Ken Wikerham, Arco, concurred that the sites depicted by Mr. Smoot were awful. He said that the average age of Arco in the bay area is 37 years old. Arco is trying to build a new image with the

Morgan Hill site. He understood that it is a privilege to sell beer and wine. He stated that he disagrees with one of the experts in attendance, noting that he has a degree in clinical psychology with a speciality in marriage, family and child counseling. He acknowledged that a problem exists, however, it is not a merchant problem but an educational problem. He said that loitering would be discouraged as employees would ask loiters to leave the area. The facility would be well lit and afford safety. He said that in most cases, Arco dealers have paid less in insurance costs when open 24-hours because they do not have potential break-ins and loitering. He would agree to stop selling beer and wine at midnight or 11:00 p.m., awaiting the Council to address this issue.

No further comments being offered, the public hearing was closed.

Mayor Kennedy stated that he toured the site along with Council Member Tate. He thanked the residents for taking the time to show them the situation at the site. He indicated that he also met with Scott and Steve Schilling to review additional information. He expressed a safety concern with the existing crossing, noting that individuals are crossing the railroad tracks to get to the Cochrane area. He felt that this issue needs to be corrected. He indicated that he discussed with Mr. Schilling the possibility of including an elevated pedestrian overcrossing. However, Caltrain may be widening the tracks to two tracks in the future, necessitating changing the overcrossing. He felt that there were still unanswered questions. He indicated that he would like to see additional information on these alternatives (e.g., elevated crossing, what is Caltrain's plan for the double tracks).

Council Member Tate requested that the Police Chief address the safety issues raised, specifically the off site sale of alcohol to take place at the am/pm facility. He stated that he still has concerns with the on site sale of alcohol being sold to the north of this location. He wanted to get a sense for the dangers of "on sale" versus "off sale" of alcohol.

Chief of Police Galvin stated that on site sale of alcohol is more of a problem from a police perspective. He said that there are generally fewer problems when it is sold and consumed at another location. He did not see the Capri Restaurant as a particular problem for the City. However, historically, on site sale bars would cause more police problems versus an off site sale establishment such as an am/pm market. He felt that the installation of a fence would help deter individuals from crossing the railroad tracks.

Council Member Tate requested a response to the concern relating to the hollow/bendable fence versus a solid fence.

Mr. Schilling indicated that the fence to be installed would be a solid, wrought iron fence and not the material displayed this evening.

Council Member Tate felt that there appears to be an area of compromise in limiting the hours of sale of beer and wine. He recommended that additional work be done on the hours of the sale of

beer and wine.

Council Member Chang requested further clarification relating to the Caltrain expansion.

Mayor Kennedy said that the ½ cent sales tax approved by the voters authorized funding to increase the number of trains from 8 to 20 per day. In order to handle 20 trains with a reverse commute, Caltrain will need to double track in order to allow the freight operations to continue. He said that the Santa Clara Valley Transportation Authority (VTA) is under negotiations with Union Pacific to come up with a solution to acquire the track rights and an agreement as to what will be done. He noted that the bridge is only wide enough for one track, therefore, the overcrossing would need to be changed in order to accommodate an additional rail across it. He did not believe that the design has been completed to handle the additional track. Therefore, the whole situation will change. He indicated that there are many communities that have pedestrian crossings that are above the tracks to allow pedestrians and cyclists the means of getting across the tracks. However, it requires ADA accessibility and would need to be tall to allow freight clearance. After viewing the site with the residents and neighbors, he noted that they would have to walk a long distance to get to the am/pm market. He expressed concern that there might be individuals who would find a shorter way to get across the tracks to get to the am/pm market. If the Council was to approve the project today and it did not have the capability to add the overcrossing, it would make it difficult to add it later. He felt that the overcrossing would need to be designed to accommodate double tracks. He recommended that this item be tabled or continued with the request that the project proponent(s) provide additional information.

Council Member Sellers stated that the attorney for the residents points out that there were no similar gasoline stations located in residential areas in Morgan Hill. He said that this was not the case because he resides near one and that the Chevron south of town exists as well. He felt that Chevron mitigated the concerns of being located adjacent to residents. He appreciated viewing the video as it was enlightening. He said that he was familiar with Alisal and the challenges that the community faces. He did not believe that this situation would be tolerated by the City or anyone in the community. He stated that this is a planned unit development zoning application that would afford the city the ability to institute specific parameters within the existing zoning. He could not think of a more beautiful project than the one proposed for the site. He felt that Arco is a good company and offers a good product. However, it would be better sited in another location in Morgan Hill as it is not convenient to access the gas station as you leave town. Should the Council wish to proceed with the project, he requested limitation in hours be implemented. He felt that this town acts in different ways and that it would be appropriate to limit the sale of alcohol and to close the facility at an appropriate time and not allow 24-hour access. He also recommended that the City look closely at the fence to see if it can be designed on both sides. He felt that Union Pacific would have concern should landscaping be proposed on both sides of the track. He asked if there were other mitigations that could be undertaken to limit loitering and the ability of individuals to gather around the fence? He recommended that maintenance standards be instituted to ensure that five to ten years from now

the project remains as attractive as the day it is built. He stated that he could not support the am/pm facility at this location.

Council Member Tate felt that the City needs to get a project in this location that it can be proud of. He said that a lot has been said about the quality of the project, noting that it is a well designed project. He noted that this is a general commercial zoned parcel and that someone could come into the City with a general commercial application that would not require City Council review. He felt that the City has a known quantity in the gateway project. He would prefer to see the office building first, noting that economics does not work. He recommended that the City makes sure that the project is made as compatible as possible to the neighborhood. He noted that South Valley Developers has been cooperative in trying to make this happen. He wanted to make sure that the bars of the wrought iron are close and that it would be difficult to climb. He felt that the project proponents have addressed the noise and lighting issues. He understood that the neighborhood would still not have a sense of safety but that he felt that the project proponents have addressed every issue. He supported review of the proposed landscaping along the fence to make sure that it is not a place to hide and that maintenance standards are imposed. He noted that the Arco representative indicated that they would be willing to compromise on the hours of sale of alcohol. He recommended that the sale of alcohol ends at 10:00 p.m. He felt that the proposed development is the best type of project that would be proposed in this location by someone who is part of the community and that the developer would make sure that the project is one that the community would be proud of. He recommended that every issue be pursued to make the neighbors comfortable and indicated that he would support the project.

Mayor Pro Tempore Carr stated that he has spoken with several of the area residents during the interim two meetings on the phone. He said that he has driven and walked the neighborhood as well, understanding that this is a tight nit group and an attractive place to live. He stated that he would support a continuance to allow additional information to be submitted. However, he stated that he was not sure if he would support the suggestion of an overcrossing based on the comments heard this evening. He felt that there were arguments from the neighborhood that are in conflict with each other and that he was not sure that the overcrossing would help resolve the conflicts. He understood that the residents want the area to be a safe environment while on the other hand, others have expressed concern with the lighting necessary to be safe, noting that the lighting would intrude on the neighbors quality of life. He supported restricting the sale of alcohol from 10:00 p.m. to 7:00 a.m. Should the Council be considering limiting the hours of the sale of alcohol, he felt that the Council should look at other projects of this nature as other projects exist in Morgan Hill (e.g., convenience stores attached to gas stations). He noted that the argument of fairness was raised this evening and felt that limiting the sale of alcohol would be a fair concept for the Council to think about.

Mayor Pro Tempore Carr wanted Arco representatives to give thought to how many workers they have on site at any given time. From a safety perspective, he would like to know that there were two

employees on site at any given time, especially overnight (e.g., one employee inside and another person who could be outside picking up trash). He felt that the proposed fencing structure would separate the facility from the neighborhood. With the installation of an overcrossing, the City would create a passage way for the exact individuals that the neighborhood is concerned about. He felt that this is of greater concern versus the concern about people crossing the tracks to get to the facility. He felt that the fence would act as a deterrent. Should this item be postponed, he requested that the developer take a look at installing the fencing on the west side of the tracks as this would provide some additional deterrent to crossing the tracks. He inquired whether the installation of a fence would affect the possible future double tracking of the railroad (e.g., public right of way may be needed)? He noted that there is no where in Morgan Hill that has an eight-foot fence installed along the tracks to keep individuals from crossing the railroad tracks. He said that the City has an opportunity to protect this site from individuals crossing the railroad tracks and that the community should be embracing the protection of the neighborhood from railroad tracks. He stated his support of postponing this application for the items identified by Council Members and to allow staff to review the noise and light studies that were submitted as there was some mention at the podium refuting these studies.

Council Member Chang stated her support of Mayor Kennedy's suggestion of postponement. She requested that traffic circulation be investigated. She indicated that she would like to know the future plans for Monterey Road and whether it is proposed to provide two lanes in each direction as this remains a concern to her.

City Attorney Leichter recommended that the Council allow the developer to submit the specific information it requests and that the public hearing be limited to the specific items raised, should the City Council wish to continue the public hearing.

Scott Schilling requested a continuance to April in order to respond to the issues raised.

Mayor Kennedy clarified that this item would be continued in order to allow staff and the developer to provide additional information on the questions and issues raised. The City Council would open the public hearing at that time but that the comments at that public hearing would be focused only to the items that have been raised this evening.

Mr. Sweigert stated that it would be useful and beneficial to achieve the goals as set forth by Mayor Kennedy if the City made available to the residents a list of clearly defined issues. Once the applicant has provided the information, he requested that the public be given the opportunity to review the information as this is part of the CEQA process.

City Attorney Leichter stated that the hearing is not addressing further measures but establishing an amendment to the PUD guidelines. She said that CEQA would not require the information be published in advance and that it would be up to the developer whether he wishes to publish the

information in advance. She stated that a list of issues would be made available through the Planning Department.

Action: *On a motion by Council Member Chang, and seconded by Mayor Pro Tempore Carr, the City Council unanimously (5-0) continued the public hearing to April 3, and directed staff to work with the applicant to address the following: 1) limitation of the hours for the sale of alcohol; 2) the location, placement, and appearance of the fence so as to minimize potential loitering or other activities; 3) additional information about security measures within the store, specifically the number of employees and staffing patterns; 4) staff to review the materials already submitted and comment on the noise and light studies that are part of the Council's packet; 5) identify the future plans for the widening of Monterey Road under the underpass in connection with the double tracking of the railroad; 6) limiting the hours of operation to less than 24 hours; 7) maintenance standards for the property; and 8) consideration be given to an elevated pedestrian crossing.*

OTHER BUSINESS:

10. UPDATE AND EXTENSION OF MEASURE P

Director of Community Development Bischoff presented the staff report.

Council Member Tate felt that staff made the right recommendation of aiming for a November 2003 election but recommended that March 2004 be used as an option based on the election being a primary election.

Mr. Bischoff stated that whether it is a November or March election, the City can still meet ABAG's identified fair share of housing. The further an election gets pushed out the more nervous he gets in terms of the City's ability to meet ABAG's objective. He stated that he had a second conversation with the State representative regarding the City's Housing Element. He indicated that the State has completed their review and stated that they support the City's Housing Element as it is well drafted. They liked the City's policies, applauded the City in its affordable housing accomplishments, and that they believe that they would give the City a conditional certification pending the successful outcome of an election. He indicated that the Housing Element sent to the state indicates a 236-unit deficit. He said that the State did not give an election date as long as the City holds an election and demonstrates that from the date of the election to June 30, 2006, that the City has a strategy on being able to build the 236-units.

Mayor Pro Tempore Carr noted that the Housing Element specified a date for an election.

Mr. Bischoff stated that the draft Housing Element suggests that the City would take the matter to

the voters in November 2002, noting that the City Council has not adopted the draft Housing Element. He said that between the election date and 2006, the City needs to accomplish the goals of the housing element.

Mayor Kennedy opened the floor to public comment.

Dick Oliver indicated that he has been developing in Morgan Hill since the early 1970s. He stated that he sent the City Council a letter requesting that he be afforded the opportunity to serve on the committee. Also, it was his hope that the development community might have an opportunity to review and provide input on the items to be considered in the Measure P process. He said that there may be some issues that he and other developers may have concerns about, noting that it is the development community that has to abide by the rules.

No other comments were offered.

Council Member Sellers stated his support of staff's recommendations as stated. He appreciated that everything should be done to place the Residential Development Control System on the November ballot. However, he felt that this issue is too important to the community to rush through it. He did not see a way to deal appropriately with all the issues that the City has to deal with regarding Measure P without allowing adequate time. He did not believe that it would be appropriate to place the issue on a ballot that would have a less broad representation from the voters. He felt that staff's recommended action includes, in item 5, that the committee completes its recommendation for Council consideration by March 1, 2003. By the time the Council reviews the recommendation and gets something on the ballot, the Council may be looking at a November 2003 election, noting that it was not a regular election. He noted that staff recommended action item 3 states that the committee is to address the issues identified in the staff report as well as other issues that the committee deems important. He felt that this would afford plenty of latitude to address other issues.

Mayor Kennedy noted that staff recommends the appointment of a two-member subcommittee to select members to serve on the committee.

Council Member Chang indicated that she would like to serve on the Measure P committee.

Council Members Chang and Sellers expressed an interest in serving on the selection committee to screen Measure P committee applicants.

Council Member Tate said that he was surprised to see a staff recommendation of a 15-member committee. He stated that he would recommend the establishment of a small committee who would perform a lot of community outreach as part of their activity. However, after reviewing the list of proposed members to the Committee, he felt that the 15-member committee make up was appropriate. However, as there are a number of finite and well-defined sets of issues that the

committee will be reviewing, a 15-member committee with a core committee that does more of the work may be appropriate. He expressed concern that should individuals be appointed to the committee who do not understand Measure P, that a lot of time would be taken to educate them, endangering the end point in time that the City needs to accomplish. He was trying to find a way to be efficient and yet have a review committee of 15 individuals who oversee what is going on and help with community outreach.

Mayor Kennedy said that there is one thought of having representatives from special interest groups and that the City would end up not having a true representation of the community as a whole. He stated that he would like to see more representation from community members either as a part of a neighborhood association or average citizens at large. He did not know if it was necessary to fill all categories.

Council Member Sellers noted that staff recommendation item 2 states that the Council is to appoint a two-member subcommittee to screen applications and recommend appointments to the committee. He felt that the two member council subcommittee would take the comments expressed into consideration.

Mayor Kennedy requested that the Council subcommittee consider the fact that the Council does not want to lose the perspective of the community as a whole by getting special representation from very special interest groups.

Mayor Pro Tempore Carr concurred that a small number of individuals who are educated about Measure P would help move the process along. He felt that there may be cross representation by business/retail employers who are also residents of Morgan Hill. He recommended that the real estate community be included in the list. He stated his support of getting this on the November 2003 ballot. He stated that it appears that the Council has to approve the ballot Measure on May 9, 2003 in order to make the November 2003 ballot.

Mr. Bischoff clarified that the City Council has to approve the ballot language on July 2. He said that the City would need to complete its environmental review by May 21, 2003, noting that the dates listed coincide with Council regular meeting dates and that the Council could hold special meetings. He stated that the City has to prepare the CEQA documents and make them available for a 30-day review. He said that this is also predicated on the notion that the City would not need to prepare an EIR for the amendments. If there is a scope that would require an EIR, the timeline would not be operative.

Mayor Pro Tempore Carr stated that he wanted to make sure that between the Planning Commission and the City Council meetings, there would be adequate time from March 1 when the City Council wants the Committee to conclude its work, to when the City Council has to adopt a measure for the March 2003-ballot.

Mr. Bischoff said that the Council needs to indicate whether it wants the draft amendments to be reviewed by the Planning Commission, noting that they do not necessarily need to review them.

Mayor Pro Tempore Carr supported having the Planning Commission review the proposed amendments as they are the ones who look at Measure P the most.

Mr. Bischoff indicated that this being the case, it may be a tight time frame. The Council may need to back the schedule up a month.

Mayor Pro Tempore Carr stated that should this be a tight time frame, he recommended that the date be moved from March 1 to February 2, 2003 and have staff use this as a timeline for drawing up the plans for how this committee is going to work.

Actions: *On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) 1) **Directed** Staff to Initiate Recruitment for Committee Membership, as Identified in the Memo; 2) **Appointed** a Sub-committee of Council Member Chang and Council Member Sellers to Screen Applications and Recommend Appointments to the Committee; 3) **Directed** the Committee to Develop a Comprehensive Set of Draft Amendments to Measure P Which Will Address the Issues Identified in the Memo, as Well as Other Issues the Committee Deems Important; 4) **Directed** the Committee to Develop a Plan for Community Outreach and Education Regarding the Proposed Amendments; **Directed** the Committee to Complete its Recommendations for Council Consideration by February 1, 2003; and 6) **Appropriated** \$65,000 from the Unappropriated Fund Balance of the Community Development Fund for the Measure P Amendment Referendum.*

City Council and Redevelopment Agency Action

OTHER BUSINESS:

11. AUTO DEALER SITES AND STRATEGY

City Manager/Executive Director Tewes stated that staff is before the City Council to present a proposed strategy on how to attract more retail car dealerships than would otherwise occur. He said that approximately five months ago, staff brought to the City Council its financial forecast that recognized that the recession has impacted general fund revenues and that it was necessary for staff to reduce expenditures across the board. He said that because of the City's financial reserves, no particular city services were adversely impacted. However, it meant that a number of initiatives that the Council wanted staff to pursue had to be placed on hold and that the opportunity to expand and improve services in the areas of public safety, park maintenance or recreation services, etc., would have to be deferred until the economy recovered sufficiently. He noted that the Council requested

that staff not look at the existing general plan, but return with a strategy of what it would take to accomplish earlier implementation of car dealerships which may include changes to the general plan. Staff is not telling the Council where auto dealerships could be located but rather, what changes need to be made in public policies or public investments in order to encourage the location of car dealerships in response to the Council's request to seek economic development opportunities.

Director of Business Assistance and Housing Services Toy presented the staff report. He indicated that staff is not proposing an auto mall but rather an auto district where dealers would locate by each other. He said that designs of facilities would be controlled by PUD guidelines and design standards. He indicated that some of the sites identified would require a general plan amendment and rezone. He indicated that the limitations of using Redevelopment Agency funds are: 1) the city can only assist a dealer if they locate on a previously developed site; 2) and the installation of offsite improvements, regardless of where the dealership would locate.

Council Member/Vice-chairwoman Chang inquired as to how many dealerships the City would envision attracting? Mr. Toy stated that staff is looking at attracting 3-4 auto dealerships, noting that each dealership would require 4-6 acres. Therefore, 20 acres would be required to accommodate 4-5 dealerships.

Mayor/Chairman Kennedy stated that he spoke to an auto dealer several days ago who stated that it would be ideal to have 10 dealerships with 3-5 acres per dealership as an optimum size.

Council/Agency Member Tate asked why the City was not being more flexible with an auto mall concept?

Mr. Toy stated that staff would be flexible in terms of an auto mall concept. Staff noted that a dealer is interested in locating to Morgan Hill. Should the City be successful in attracting a dealership, an auto district could work.

City Manager/Executive Director Tewes stated that staff wanted to have a pragmatic strategy and not just what works in theory. The development of auto malls was a hot topic 10 years ago when large sites could be assembled and investors with lots of risk capital were willing to place it up front, hoping that dealers would come. He stated that this is not the case anymore. Therefore, staff is suggesting that the City be open to ideas and that is why staff is looking at the auto district concept.

Mr. Toy indicated that the Town of Los Gatos has 5-6 auto dealerships in an auto district with the largest facility located on a 3-4 acre site.

Mayor/Chairman Kennedy opened the floor to public comment.

Bob Engles stated that he was present representing the Sullivan property located at Cochrane and

Highway 101 and that he has been appointed as the referee of the court to handle the disposition of the property. In working with the property over the past year, it was found that it has a special designation on the General Plan Map as regional retail. It was his understanding that there are two current locations in Morgan Hill designated regional retail; this site, as well as the property located on the southwest corner of Tennant and Highway 101. He stated that he has tried to entertain companies such as Costco, noting that they selected to locate in Gilroy. He did not have an opportunity to negotiate with Lowes which is also locating in Gilroy. Target has a new format that encompasses 100,000 square feet, indicated that they are rumored to be going to the same site in Gilroy (intersection of Highway 101 and 152). He felt that Gilroy keeps beating Morgan Hill when it competes for businesses because of the City's growth control. He stated that the City cannot expect big retailers to locate in Morgan Hill when there is a lack of homes. He requested that the current regional retail zoning be removed from the Cochrane/101 site and that it be included as a site for an auto mall. He noted that the area C site is below grade on a south bound basis and that it would be difficult to see signage from that side of the freeway. Eliminating the regional retail concept from area C would result in opening up the area as a multi-use concept and involve all 60 acres of the ownership on the north side of Cochrane/Highway 101 in order to develop commercial and R&D in a phased basis. He indicated that there are a couple of hotels that would like to locate in this area. He felt that there were other uses for the site that could be utilized other than what is currently allowed. He requested that this issue be addressed in the near future as the site has a zoning that does not work.

City Manager/Executive Director Tewes stated that staff has held meetings with the property owners of the area who expressed the concerns and issues raised by Mr. Ingles. It is the property owner's hope that there may be greater flexibility in the land use designation. He noted that the General Plan has recently been updated. However, staff advised the property owner that the Council directed staff to conduct a major transportation corridor study on the east side of the freeway, noting that this may have implications for the land use patterns in the area. He informed the City Council that the property owners have agreed to participate in this study and provide staff with suggestions on how this study can help them with their property. He stated that staff is aware that there are other applications along this corridor that may be seeking changes to the General Plan. Staff would like to first have the transportation corridor reviewed and then return with the issues for Council consideration and possible review of land use designations, noting that the transportation corridor would take approximately six months to complete.

Sunday Minnich stated that she was present before the City Council on behalf of the Chamber of Commerce's Economic Development Committee. She stated that the Committee feels that the addition of auto dealerships supports the philosophy of economic development in Morgan Hill and also supports an increase in Morgan Hill's tax base. She indicated that the Committee has reviewed the staff report and concurs with the recommendations. She requested that the City Council move forward with staff's recommended actions.

Ralph Lyle, 2881 Whipperwill, speaking as a citizen, stated that he wanted to address the Dunne intersection as he drives through this intersection all the time and that he views this area as the heart of town. He noted that the City has gone through the process, over the past year or two, of making major investments in land along Condit for various community projects, including the community center which are accessed through Dunne Avenue. He stated that the Dunne and Condit intersection is already impacted. He requested that the Council not locate an auto dealership in the Dunne location. Should the Council approve an auto dealership(s), he requested that Condit Road be repaired. He felt that Council Member Tate's suggestion on a subcommittee of the Measure P committee has merit. He felt that the larger committee could meet less frequently and help set direction with the small group who performs the "grunt" work. This would help expedite the process. He felt that both a November 2003 and a March 2004 election have advantages. The one advantage to the November 2003 ballot measure is that the City may have another opportunity to place the matter back on the March 2004 ballot should it fail in November. However, if the measure fails in the March 2004 ballot, he did not believe that there was a hope of recovery.

Council Member/Vice-chairwoman Chang stated that she was having a hard time accepting area A to be the future location of a four to five-auto dealership sites. She indicated that she visited the City of Salinas yesterday and studied their auto district, noting that it was a very large area. She said that she would hate to see Morgan Hill become another Modesto, Salinas, or Hayward because she did not envision Morgan Hill (image) becoming a large auto dealership district. She understood that Morgan Hill would not become another Town of Los Gatos, but felt that Los Gatos had good planning. She noted that the Town of Los Gatos has auto dealerships, but you remember its ambiance. She felt that their dealerships are planned properly. She stated that this is becoming a core issue for her and that she is having a hard time accepting the recommendation. She stated that she understood that the City is in need of revenue but felt that the City has to be selective. She noted that the City's budget increased from \$8 million to \$13-15 million. She felt that the City got by with an \$8 million budget, providing the services necessary. She did not believe that the items budgeted have to be completed as they are not necessary items. If area 3 is approved for an auto dealership, citizens would only see auto dealerships. She invited the City Council to lunch in Los Gatos in order to sell the rule of atmosphere/ambiance in the manner that Los Gatos planned their auto dealerships. She felt that the Town of Los Gatos is well planned, noting that they have small parks and that it is the architecture that makes their town what it is. She felt that the City can image its community similar to that of the Town of Los Gatos.

Mayor/Chairman Kennedy stated that he would support a joint luncheon with the Los Gatos Town Council in the future, acknowledging that they have accomplished a lot of good things.

Council/Agency Member Tate noted that area A is located near Dunne Avenue and contains Dan Gamel and Al Chew's Chevrolet dealership that has the vast parking lot in front of Safeway. He felt that this area is a "sea of cars." He views areas B and C as true freeway, gateway approaches to the City that have not been turned into a vast parking lot of cars. He felt that the city still has a chance

to encourage development that would make them nice gateways. He stated that he supported area A because it would be compatible with what currently exists, and that he did not consider this area as a gateway. Should the Council be looking at the east side, he felt that the Council needs to look at the road, noting that the City is already looking at the road situation with what is being proposed with the area. He strongly supported area A for auto dealerships.

Mayor/Chairman Kennedy expressed concern with further traffic congestion on Dunne Avenue. He requested that area C on Cochrane Road be moved up as the first priority site as it is adjacent to existing shopping centers. He stated that he has a problem with the 10-mile distance to Gilroy associated with area B. He reiterated that he did not support Area A based on the condition of Condit Road.

City Manager/Executive Director Tewes stated that car dealerships generate very little traffic as a retail use and hardly any traffic at all during peak hours where there is the most congestion. He said that this is one of the reasons why staff felt that the Dunne area was appropriate for car dealers and that the areas of high traffic retail generation would be more appropriate where Mr. Ingles does not support (site 1 at Cochrane and Highway 101).

Mayor Pro Tempore/Agency Member Carr stated his support of staff's recommended suggestion of area A because the City has already approved auto sales in this area. Unless the City wants to provide an incentive to move the Chevrolet dealership to Area B or C and start over again, he felt that the Council should take a look at area A. He felt that there were ways that the City could take a strong look at auto dealerships to make sure that they are designed attractively and to address concerns. He agreed that a large parking lot is not the image desired for the largest overpass of the freeway. However, he felt that this concern could be mitigated. He recommended the exploration of attracting dealerships to smaller lots and that it be indicated that 4-acres is the maximum sized lot that the City would be interested in. He did not know how the City could consider the other areas when auto dealerships are located in area A. He requested that staff provide a guesstimate as to the number of car dealerships that a community like Morgan Hill can sustain/need.

City Manager/Executive Director Tewes stated that a city can fairly predict the number of gas stations needed to serve a community. However, there is no such calculation for auto dealerships or big box retail businesses who serve a large trade area. He noted that this use likes to cluster and that they locate where they are afforded a good deal. He stated that many communities in southern California enjoy a high level of public services because they have dozens of car dealerships within their city limits.

Mayor Pro Tempore/Agency Member Carr stated that the only reason that the community of Morgan Hill is interested in attracting auto dealer(s) is for the tax base to support the services desired. He noted that the dealership strategy did not include an American auto dealership and did not believe that the City should shy away from any American auto dealership. He understood why the City

would be interested in attracting upper end and luxury cars, but felt that there were still a large number of individuals who are interested in a good American family.

Council/Agency Member Sellers did not agree that the reason the City should encourage auto dealerships is for its tax base but for the fact that they provide a service to the community (auto repairs and maintenance). He agreed that auto dealerships should be explored that would add benefit to the residents that goes beyond the tax base. He concurred with site A as the preferred site and recommended that the City look at changing the land use designation for the Cochrane Road site at this time. He felt that the decision relating to the location of auto dealerships would impact the other areas and that this would necessitate a revisit of these sites. He recommended that focus be given to the Dunne area. He stated that he understood the concern of brightness and starkness associated with the Salinas auto dealerships, noting that this was by design. He felt that the City could approve a friendlier and attractive auto dealership by design with the Dunne Avenue site similar to that of Los Gatos. He felt that the strategy should be on specific dealerships, focusing on the Dunne Avenue area.

Chairman/Mayor Kennedy felt that there may be a variety of alternative possibilities to make the strategy successful. He said that there was also the issue of competition for land acquisition. He stated that it was his assumption that all three areas would be studied and that the Council would prioritize the areas based on interest.

Agency/Council Member Chang stated that property owners at Tennant Avenue would request \$20 per square foot of land instead of \$16 per square foot, raising the cost for the purchase of land from \$1 million to \$3 million.

Agency/Council Member Sellers reiterated that if site A is not designated as the area to locate auto dealerships, he would not be supportive of providing economic incentives to locate at areas B or C.

Action: *On a motion by Council/Agency Member Tate and seconded by Council/Agency Member Sellers, the City Council/Agency Commission unanimously (5-0) **Agreed** to extend the meeting beyond 11:00 p.m.*

City Manager/Executive Director Tewes clarified that the incentive guidelines being recommended by staff are not so formulaic that staff would plug in numbers and suggest that a deal has been reached. He indicated that guideline 2.a. states that the City would look at the reasonableness of the land transaction so that the City's assistance is such that it does not enrich land owners who are asking more money for their land than is otherwise appropriate.

Agency/Council Member Chang stated that should the City Council approve this strategy/guideline, the land owner may return and request \$25 per square foot of land. Therefore, she would not support a motion that gives preference to area A.

Agency/Council Member Tate stated that based on Agency/Council Member Chang's concern, the Agency/Council is supporting staff's recommendation as presented.

Actions: *On a motion by Agency/Council Member Sellers and seconded by Agency Member/Mayor Pro Tempore Carr, the Agency Board/City Council, on a 4-1 vote with Agency/Council Member Chang voting no: 1) **Approved** List of Potential Sites; 2) **Adopted** Auto Dealer Strategy (the "Strategy"); and 3) **Directed** Staff to Implement the Strategy.*

FUTURE AGENCY-INITIATED AGENDA ITEMS:

No items were noted.

CLOSED SESSION ITEMS

Action: *It was the consensus of the City Council to **continue** the discussion of closed sessions to its next meeting due to the lateness in the hour on the advise of Agency Counsel/City Attorney that the matter can be discussed at the March 6, 2002 meeting.*

ADJOURNMENT

There being no further business, Mayor Kennedy adjourned the meeting at 11:20 p.m.

MINUTES RECORDED AND PREPARED BY:

Irma Torrez, City Clerk/Agency Secretary